

2. A timetable for routine site, borrower and lender visitations by FmHA or its successor agency under Public Law 103-354 personnel is established before the Loan Note Guarantee is issued. As a guide, visits to newly established borrowers with the lender represented should be scheduled monthly. Visits to established, nonproblem borrowers must be made at least annually except for seasoned loans which will be visited at least bi-annually. Special attention problem accounts should be visited as frequently as the need demands. If possible, these visitations should be coordinated with the lender's visits.

3. During or in preparation for field visits, the following functions are to be performed:

- (a) Current financial information is obtained in advance and analyzed for trends.

- (b) Any issues revealed or problems not resolved from the last visitation are included in the agenda.

- (c) Collateral is observed and its condition, maintenance, protection and utilization by the borrower appears to be satisfactory.

- (d) A report of the visit is made on Form FmHA or its successor agency under Public Law 103-354 449-39, "Field Visit Review (Business and Industrial Loans)," or otherwise documented and included in the loan file. The report should include an opinion of the borrower's status based upon observations made during the visit.

- (e) Any instructions or directions to the lender should be confirmed by letter.

4. The Program Chief or Loan Specialist will conduct an annual meeting with each lender or its agent with whom a Loan Note Guarantee(s) or Contract of Guarantee(s) is outstanding. This cannot be redelegated. These meetings may be scheduled at the time FmHA or its successor agency under Public Law 103-354 makes periodic field inspections to the borrower's place of business. At the meeting, a review will be made of the lender's performance in loan servicing, including enforcement of conditions and covenants in the loan agreements. The observations and results of the meeting will be documented. Form FmHA or its successor agency under Public Law 103-354 449-39 may be used for this purpose. Servicing exceptions on the part of the lender which are noted by FmHA or its successor agency under Public Law 103-354 will be confirmed by letter to the lender.

5. The lender performs an adequate analysis of borrower financial statements for FmHA or its successor agency under Public Law 103-354. FmHA or its successor agency under Public Law 103-354 in turn will evaluate the lender's analysis and follow up with the lender on servicing action(s) required or negative observations not detected through the lender's analysis. The financial statement analysis of the lender, the financial statement and a memorandum reflecting

FmHA or its successor agency under Public Law 103-354's analysis, including a comparison to previous and projected performance of the borrower, will be forwarded to the National Office, Attention: Business and Industry Division, only for the following loans:

- (a) All loans within the first year of loan closing.

- (b) Loans over one year old as determined by the State Director or a National Office assigned loan reviewer who is participating in a field review. In event of a disagreement between the State Director and an assigned loan reviewer as to which loans should be included, the assigned loan reviewer's decision will take precedence.

- (c) All problem and delinquent loans.

- (d) Loans that the State Director would like reviewed by the National Office.

6. Meetings are arranged between the lender, borrower and FmHA or its successor agency under Public Law 103-354 to resolve any problems of late payment, etc.

D. State Director authorities. 1. The State Director may delegate authority for the conduct of all functions listed in §1980.469 Administrative B., except item C. 4. in Administrative B.

2. The State Director may approve B&I guaranteed loan servicing actions as authorized in separate written approval authorities issued in accordance with Subpart A of Part 1901 of this chapter.

3. Servicing actions on loans which exceed the State Director's loan approval authority are to be referred together with the State Director's recommendations to the Director, Business and Industry Division, for prior review and concurrence.

[52 FR 6501, Mar. 4, 1987, as amended at 53 FR 40403, Oct. 17, 1988; 60 FR 26350, May 17, 1995; 61 FR 18495, Apr. 26, 1996]

§ 1980.470 Defaults by borrower.

[See §1980.63 of Subpart A, of this part.]

Administrative

Refer to Appendix G of FmHA or its successor agency under Public Law 103-354 Instruction 1980-E (available in any FmHA or its successor agency under Public Law 103-354 Office) for advice on how to interact with the lender on liquidations and property management.

A. In case of any monetary or significant non-monetary default under the loan agreement, the lender is responsible for arranging a meeting with the State Director, or its designee, and borrower to resolve the problem. A memorandum of the meeting, individuals who attend, a summary of the problem and proposed solution will be prepared by the FmHA or its successor agency under Public Law 103-354 representative and retained in

the loan file. When the State Director receives a notice of default on a loan, he/she will immediately notify the National Office in writing of the details and will subsequently report the problem loan to the National Office on the quarterly status report. The State Director will notify the lender and borrower of any decision reached by FmHA or its successor agency under Public Law 103-354.

B. In considering servicing options, some of which are identified in paragraph X. A of Form FmHA or its successor agency under Public Law 103-354 449-35, the prospects for providing a permanent cure without adversely affecting the risks of the FmHA or its successor agency under Public Law 103-354 and the lender must become the paramount objective. Within the State Director's authority temporary curative actions such as payment deferments, moratoriums on payments or collateral subordination, if approved, must strengthen the loan and be in the best interests of the lender and FmHA or its successor agency under Public Law 103-354. Some of these actions may require concurrence of the holder(s). A deferral, rescheduling, reamortization or moratorium is limited by the period of time authorized by this subpart for the purpose for which the loan(s) is made or the remaining useful life of the collateral securing the loan. For example, if the promissory note on a working capital loan is scheduled to mature in 2 years the loan could be rescheduled for 7 years or the remaining life of the collateral whichever is the lesser of the two.

C. Subsequent loan guarantee requests will be processed in accordance with provisions of § 1980.473 of this subpart.

D. If the loan was closed with the multi-note option, the lender may need to possess all notes to take some servicing actions. In these situations when FmHA or its successor agency under Public Law 103-354 is holder of some of the notes, the State Director may endorse the notes back to the lender after the State Director has sought the advice and guidance of OGC, provided a proper receipt is received from the lender which defines the reason for the transfer. Under no circumstances will FmHA or its successor agency under Public Law 103-354 endorse the original Form FmHA or its successor agency under Public Law 103-354 449-34 to the lender.

E. The State Director's authority to approve servicing actions is defined in § 1980.469, Administrative D.2.

F. Consultant services may be recommended by the State Director to assist FmHA or its successor agency under Public Law 103-354 and the lender in determining which servicing action is appropriate. Requests for consultant services should be made by the State Director and addressed to the Administrator, Attn: Business and Industry Division. A full explanation of the loan

history, an evaluation and scope of the proposed study and the need should be included in the request.

G. When the National Office determines it is necessary on individual cases, due to some special servicing requirements, it may, at its option, assume the servicing responsibility on individual cases.

H. The State Director will report all delinquent and problem loans quarterly to the Director, Business and Industry Division, by the 10th day of January, April, July and October.

I. The State Director will notify the Finance Office by memorandum of any change in payment terms such as reamortizations or interest rate adjustments and effective dates of any changes resulting from servicing actions.

§ 1980.471 Liquidation.

(See § 1980.64 of subpart A of this part.)

Refer to appendix G of this subpart (available in any FmHA or its successor agency under Public Law 103-354 Office) for advice on how to interact with the lender on liquidations and property management.

(a) Collateral acquired by the lender can only be released after a complete review of the proposal.

(1) There may be instances when the lender acquires the collateral of a business where the cost of liquidation exceeds the potential recovery value of the collection. Whenever this occurs the lender with the concurrence of FmHA or its successor agency under Public Law 103-354 on the collateral in lieu of liquidation.

(2) Sale of acquired collateral to the former borrower, former borrower's stockholder(s) or officer(s), the lender or lender's stockholder(s) or officer(s) must be based on an arm's length transaction with the concurrence of FmHA or its successor agency under Public Law 103-354.

Administrative

A. The State Director determines which FmHA or its successor agency under Public Law 103-354 personnel will attend meetings with the lender.

B. Introduction to Paragraph XI and Paragraph XI B of the Lender's Agreement. FmHA or its successor agency under Public Law 103-354 will exercise the option to liquidate only when there is reason to believe the lender is not likely to initiate liquidation efforts that will result in maximum recovery. When there is reason to believe the